

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
OSCAR RAMIREZ, JAVIER GUERRERO,  
GERONIMO HERCULANO, PABLO RUTILIO,  
MAGGIE ANDRES CRECENCIO, GUILLERMO ALVAREZ,  
JUANA CRUZ HERNANDEZ, LEONIDAS MATEO,  
ANYELI OVALLES HERNANDEZ, MIRNA REYES  
MARTINEZ, RAMON ROSARIO, OMAR TAVERAS,  
LUIS ESPINAL, and JUAN SALMERON on behalf of  
themselves and others similarly situated,

No.: 14 -cv- 4030

Hon. Valerie E. Caproni

**AFFIDAVIT OF PABLO RUTILIO  
IN SUPPORT OF PLAINTIFFS'  
REQUEST FOR CONDITIONAL  
CLASS CERTIFICATION**

Plaintiffs,

v.

M L RESTAURANT, CORP., M.L. SAN JOSE ENTERPRISES, CORP.,  
d/b/a LIBERATO RESTAURANT, ANTONIO MANUEL LIBERATO,  
FERNANDO LIBERATO, VICTOR LIBERATO, NELSON GOMEZ,  
LUCY GOMEZ, SARAH VALLEJO, NANA (LNU), and ROMEO (LNU)  
jointly and severally,

Defendants

-----x  
State of New York )

) ss.:

County of New York )

PABLO RUTILIO, residing at 615 West 189<sup>th</sup> St, Apt. 5G, New York, New York, being  
duly sworn, deposes and says:

1. I was originally hired to work at Liberato Restaurant in August 2004 at the 1 West 183<sup>rd</sup> St. location in the Bronx.
2. Liberato Restaurant is a restaurant with locations at 1 West 183<sup>rd</sup> St. and 10 West Burnside Avenue, County of the Bronx, State of New York.

3. Liberato Restaurants are open for breakfast, lunch and dinner seven days per week.

4. Since the beginning of my employment at Liberato my principal job as cook was to prepare food, but at times I helped to wash dishes or operate the fryer when the other workers were absent or overworked.

5. There are more than forty (40) employees in the 1 West 183<sup>rd</sup> St location, of which approximately six (6) are fryers, cooks, and dishwashers.

6. When I was hired in August 2004 I worked at least sixty (60) hours per week and was paid \$350 weekly in cash.

7. From sometime in 2008 to on or about April 16, 2014 I worked at least sixty (60) hours per week and was paid \$550 weekly in cash. In this period during the summers, I worked seventy hours (70) over seven (7) days per week, covering my coworkers' vacations, and received \$640 per week.

8. From the time I began to work at Liberato until the time that I left neither I nor my co-workers ever received a statement with our wages. However, I know that since 2008 I was paid \$9.16 per hour for all hours worked by dividing my weekly wages by the number of hours I worked.

9. At no time did I receive overtime for hours worked in excess of forty (40) per week. This was also true of my coworkers.

10. During the years I worked at Liberato many people came in and out of my kitchen, staying for only a short time, and leaving.

11. Sometime in 2012 I was told that I would need to start signing for my pay. I was still paid \$550 for six (6) days and \$640 for seven (7) days, and I was still paid in cash, but the

records stated that I received \$640 even when I was paid only \$550. I believe other workers were also required to sign false pay records.

12. On or about April 16, 2014 I was fired from Liberato. My hours had previously been cut two to days, when I asked for a reduction to four days.

13. I have reason to believe that my coworkers and I were subjected to similar treatment.

WHEREFORE, it is respectfully urged that the request for conditional certification of a representative class be granted.

Sworn to before me this



**PABLO RUTILIO**

25<sup>th</sup> day of September 2014.



Notary Public

REBECCA T. ISHAK  
Notary Public, State of New York  
No. 01S6286012  
Qualified in Queens County  
Commission Expires July 22, 2017